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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,776	10/22/2003	Frantz Germain	0267-1952(A)	6953
31554 7590 09/15/2009 CARTER, DELUCA, FARRELL & SCHMIDT, LLP 445 BROAD HOLLOW ROAD SUITE 420 MELVILLE, NY 11747				
EXAMINER BARRERA, RAMON M				
ART UNIT 2832		PAPER NUMBER		
MAIL DATE 09/15/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/690,776

Applicant(s)

GERMAIN ET AL.

Examiner

RAMON M. BARRERA

Art Unit

2832

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 72-145 and 152-161 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 72-118, 137-145 and 152-161 is/are allowed.
- 6) ☒ Claim(s) 119-123 and 126-136 is/are rejected.
- 7) ☒ Claim(s) 124 and 125 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 7/27/09
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 119-123 and 126-136 are rejected under 35 U.S.C. 102(e) as being anticipated by Germain, et al.(US7031125).

Germain disclosed a circuit interrupting device comprising at least one lifter 136 having a first opening defined therein and configured to move a first pair of electrical conductors 138 (movable bridge) including a phase and neutral in a first direction for contacting at least one of a second (94, 96) and third (84,86) pair of electrical conductors for permitting electrical continuity between the first electrical conductor pair of electrical conductors and at least one of the second and third pairs of electrical conductors and in a second direction for breaking electrical continuity between at least two of the pairs of electrical conductors, wherein the first, second, and third pairs of electrical conductors are electrically isolated from each other; and a circuit interrupter configured to movably engage a latch 182 having a second opening 194 defined therein and positioned to substantially align with the first opening of the at least one lifter to move the at least one lifter

in the second direction upon the occurrence of an electrical abnormality; further comprising a reset arm 60 having a reset pin 60, button 218, and flange 226; a reset lockout (figs. 25-28b); a tripping test arm 62; a sensing circuit (figs. 22-24); a coil 134 and a plunger 132; user accessible receptacle with face terminals 54,56.

Allowable Subject Matter

3. Claims 72-118, 137-145, and 152-161 are allowed.
4. Claims 124 and 125 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Germain(US6671145) and Herzfeld(US6437700) disclose corresponding elements similar to Germain(US7031125).
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAMON M. BARRERA whose telephone number is (571)272-1987. The examiner can normally be reached on Monday through Friday from 11 to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin G. Enad can be reached on (571) 272-1990. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ramon M Barrera/
Primary Examiner, Art Unit 2832

rmb